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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,804	02/18/2004	Floyd Backes	160-029	1521
34845	7590	11/29/2006	EXAMINER	
McGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			HOANG, THAI D	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,804

Applicant(s)

BACKES ET AL.

Examiner

Thai D. Hoang

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunn et al., US PAT 6,591,103, hereafter referred to as Dunn.

Regarding claims 1 and 7, Dunn discloses a wireless telecommunications system and method of operation providing users' carrier selection in overlapping heterogeneous networks. The system comprising:

Mobile user 16 operates at channel F_1 in a carrier network 71. See fig. 7, col. 8, line 66-col. 9, line 2 (logic for associating the wireless device with a current access point on a first channel);

The mobile user 16 exits one carrier network 71 and enters a second overlapping carrier network 73 operating at F_2 . The system allows the mobile user 16 to be transferred from one network to another different network and different protocols. See fig. 7, col. 8, line 66-col. 9, line 7. Also, Dunn teaches that the system analyzes signal strength to assign the base station should carry the call as the user 16 moves within the overlap area. See col. 4, lines 56-65 (logic for ascertaining, by the wireless device,

whether the wireless device should attempt to associate with an alternative access point operating on a second channel, the ascertaining logic employing, at least in-part, indications of signal strengths of transmissions from the alternative access point, and technology type employed by the alternative access);

the user requests a connection with the second carrier network, see figs. 4-6 steps 41, 51 and 61 (logic for requesting association with the alternative access point if it is ascertained that the wireless device should attempt to associate with said alternative access point)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn as applied to claims above, in view of Tiedemann et al, US PG-PUB 2002/0012332, hereafter referred to as Dunn and Tiedemann respectively

Regarding claim 2, Dunn does not teach the system collects information access point operating on other channels including indications of transmit power back-off. However, Tiedemann teaches this feature. See paragraphs [0052]-[0054]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

adapt Tiedemann's method into the system disclosed by Dunn in order to obtain a maximum transmission rate.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn as applied to claims above.

Regarding claim 6, Dunn teaches that a better cell site is selected to carry the call based on signal strength and noise parameters. Dunn does not explicitly teach the maximum signal strength recited in the claim. However, using the maximum signal strength to associate a mobile user with a base station is well-known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the maximum signal strength into Dunn's system in order for advantage cited above with respect to claim 2.

Allowable Subject Matter

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to the application:

US PG-PUB 2004/0095902 A1, Laroia et al., "Beacon signaling in a wireless system."

US PG-PUB 2003/0185233 A1, Ji et al., "Method, apparatus, and medium for migration across link technologies."

US PG-PUB 2003/0174667 A1, Krishnamurthi et al., "Method and apparatus for alerting mobile nodes of desirable access characteristics."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai D. Hoang whose telephone number is (571) 272-3184. The examiner can normally be reached on Monday-Friday 10:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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